IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 655 of 1983
With
FIRST APPEAL No. 656 of 1983

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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BAVAJI KHIMPARI MOHANPARI - Appellant(s)
Versus
SANDHI ALARAKHA MAHMAD & 2 - Defendant(s)

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Appearance :
MR ND NANAVATI for Appellant(s) : 1,
NOTICE SERVED for Defendant(s) : 1 - 2.
MR SUNIL B PARIKH for Defendant(s) : 3,
MR BR SHAH for Defendant(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 08/08/2006

ORAL JUDGMENT

1. By way of these appeals, the appellants have challenged the judgement and awards dated 23.03.82 passed by the Motor Accident Claims Tribunal (Main), Junagadh in MACP No. 299 and 14 of 1981 whereby the Tribunal directed the Tribunal awarded an amount of Rs. 63,750/- and Rs. 1125/- in First Appeal Nos. 655 and 656 of 1981 respectively.

2. The claim petitions were filed by the original

claimants seeking compensation in respect of the vehicular accident which occurred on 21.12.80 while the original claimant of MACP No. 299/81 alongwith his family members was returning from Virpur in an Ambassador Motor Car bearing no. GJP 1030 on their way to Mangrol. At about 11.45 p.m near Timbawadi on the Junagadh-Veraval highway, a truck bearing no. GTB 6053 coming from the opposite direction driven by the original opponent no.1 in a rash and negligent manner dashed with the car. The original applicant of MACP 299/81 sustained injuries due to the said accident and therefore filed the claim petition. The original claimant of MACP No. 14/81 being the owner of the motor car filed claim petition for the damage to the car. The Tribunal after hearing the parties passed the aforesaid award.

3. Learned counsel for the appellants has contended that the inferences drawn and conclusion arrived at in respect of quantum and contributory negligence are erroneous and not warranted by the facts and circumstances of the case.

4. Heard learned counsel and gone through the materials placed on record including the awards of the Tribunal. The Tribunal has gone through the oral and documentary

evidence more particularly the photographs of the place of accident at Ex. 20, panchnama at Ex. 22 and FIR at Ex. 21 and has come to the percentage of contributory negligence. I am in complete agreement with the reasonings adopted and findings arrived at by the Tribunal qua contributory negligence and therefore see no reason for interference.

4.1 As far as the quantum of compensation awarded to the appellant in MACP No. 299/81 in First Appeal 655/83 is concerned, the Tribunal has proceeded after taking into account the effect of injury which is at 10% and the monthly income at Rs. 300/- in absence of relevant evidence to substantiate the appellant's claim of Rs. 600/- as his monthly income. Looking to the age of the appellant the Tribunal has applied multiplier of 15 years which is just and proper. I am in complete agreement with the amount awarded by the Tribunal and therefore do not see any reason of interference.

4.2 With regard to the claim of the appellant in MACP No. 14/81 in First Appeal no. 656/83, the Tribunal has relied upon the panchnama and the photographs of the car. The Tribunal looking to the fact that the main damage was to the front light and the right two plates, awarded an

amount of Rs. 1000/- towards damages and Rs. 500/- towards the loss of income which in my opinion is just and proper and the said contention also does not call for any interference by this Court.

5. In view of the above, appeals are dismissed. No order as to costs.

(K.S. JHAVERI, J.)

Divya//